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City and County of San Francisco

OFFICE OF THE CONTROLLER

HUMAN RIGHTS COMMISSION:

Compliance Audit of the Department of Public Works with
Ranger Pipelines, Inc./D'Arcy & Harty Construction, a JV



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Edward Harrington
Controller

Matthew H. Hymel
Chief Assistant Controller

January 22, 2001

Audit Number: 00003

Edwin Lee, Director of Public Works
Department of Public Works
City Hall, Room 348
San Francisco, CA 94102


Dear Mr. Lee:

The Controller's Audits Division presents its audit report concerning the construction contract between the Department of Public Works (Public Works) and the joint venture of Ranger Pipelines, Inc./D'Arcy & Harty Construction, a JV (joint venture). The San Francisco Administrative Code requires the director of the Human Rights Commission, in cooperation with the Office of the Controller (Controller), to conduct random audits of contractors to ensure they properly meet their commitments to subcontract with minority and women business enterprises. We conducted this audit to verify whether the joint venture met the requirements of the City and County of San Francisco (City) to subcontract with business enterprises owned by minorities and women.

While Public Works certified the joint venture completed the work on October 19, 1999, the contract remains open as of December 28, 2000 due to an unresolved dispute between the joint venture and one of its subcontractors. Nonetheless, the joint venture had substantially met its commitment to pay 20.45 percent of the total contract amount to minority and women business enterprise subcontractors. Through July 31, 2000, the joint venture had paid the minority and women business enterprise subcontractors 20.21 percent, or \$1,748,577, of the final contract amount of \$8,651,905.

The responses of Public Works and the Department of Telecommunications and Information Services are attached to this report. The Controller's Audits Division will be working with the department to follow up on the status of the recommendations made in the report.

Respectfully submitted,



Edward Harrington
Controller



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RESULTS IN BRIEF

As of July 31, 2000, the construction contract between the joint venture of Ranger Pipelines, Inc./D'Arcy & Harty Construction, a JV (joint venture) and the Department of Public Works (Public Works) had not yet closed. While Public Works certified the joint venture completed the work on October 19, 1999, the contract remains open as of December 28, 2000 due to an unresolved dispute between the joint venture and one of its subcontractors. Nonetheless, the joint venture had substantially met its commitment to the City and County of San Francisco (City) to pay 20.45 percent of the total contract amount to subcontractors that qualify as businesses owned by minorities or women. Section 12D of the San Francisco Administrative Code requires City departments to encourage their contractors to show good-faith efforts to engage minority business enterprise (MBE) and women business enterprise (WBE) subcontractors. In its contract, which began on May 26, 1998, the joint venture committed to award 20.45 percent of its contract to MBE and WBE subcontractors. Public Works modified the contract and increased the contract amount to \$8,651,905. We found that the joint venture had paid its MBE and WBE subcontractors 20.21 percent, or \$1,748,577, of the final contract amount of \$8,651,905. During our audit, we also found sufficient evidence that the three major MBE and WBE subcontractors performed the work for which they received payment from the joint venture. Finally, our review showed that Public Works staff generally entered correct information regarding this contract into the Citywide Diversity Tracking System with the exception of some contract modifications. We also found that the system does not capture all contract payments due to a system limitation.

INTRODUCTION

The Department of Public Works (Public Works) of the City and County of San Francisco (City) awarded a construction contract to the joint venture of Ranger Pipelines, Inc./D'Arcy & Harty Construction, a JV (joint venture) to replace sewer, water, gas, and electrical services at the San Francisco Zoo. The original contract award amount was \$7,878,328 and Public Works modified the contract and increased the contract amount to a total of \$8,651,905. The contract start date was May 26, 1998. Public Works certified the joint venture completed the work on October 19, 1999. The contract remains open due to an unresolved dispute between the joint venture and one of its subcontractors.

In its bid, the joint venture made a commitment to award 13.2 percent of the contract to subcontractors who qualify as minority business enterprises (MBE) and 7.25 percent to subcontractors who qualify as women business enterprises (WBE). Under the modified contract amount, the joint venture was to pay its MBE and WBE subcontractors 20.45 percent of the contract amount or a total of \$1,769,315. According to the San Francisco Administrative Code (Administrative Code), Section 12D, a MBE is an economically disadvantaged local business owned and controlled by one or more minority persons and certified by the Human Rights Commission; a WBE is an economically disadvantaged local business owned and controlled by one or more women and certified by the Human Rights Commission.

The Administrative Code, Section 12D, is known as the Minority/Women/Local Business Utilization Ordinance (ordinance). The ordinance is intended to correct identified discriminatory practices found in the City's procurement processes and in the awarding of contracts to MBE, WBE, and local business enterprise contractors. The ordinance requires the City's contract-awarding authorities to encourage its contractors to make good-faith efforts to subcontract with MBEs and WBEs.

The director of the Human Rights Commission is to keep a database to report on the progress each City department has made towards the achievement of MBE and WBE participation goals. City departments are required to maintain correct, complete information in this database, the Citywide Diversity Tracking System, regarding their contracts.

The ordinance also requires the director of the Human Rights Commission, in cooperation with the Office of the Controller (Controller), to conduct random audits of contractors to ensure they properly meet their commitments to subcontract with MBEs and WBEs. The director selected this contract for audit.

SCOPE AND METHODOLOGY

The purpose of this audit was to determine if the joint venture met its commitment for MBE and WBE subcontractor participation in its contract with Public Works and if the subcontractors actually performed the work. We also assessed whether key information in the Citywide Diversity Tracking System is correct and complete. The audit period was April 8, 1998 through July 31, 2000.

To conduct the audit, we reviewed the applicable terms of the joint venture's contract with Public Works and assessed the joint venture's procedures for managing and subcontracting the work on the project. We verified whether the Human Rights Commission had certified the designated subcontractors as MBEs or WBEs when Public Works awarded the contract. To determine whether the joint venture paid these subcontractors the correct percentage of the contract, we confirmed with each of the major subcontractors the amounts received during the audit period. To determine whether the MBE and WBE subcontractors performed the work specified, we reviewed these subcontractors' records, including payroll and other records for the audit period. In addition, we conducted interviews with Public Works' managers and staff, the joint venture, and the MBE and WBE subcontractors. To evaluate the information in the Citywide Diversity Tracking System, we reviewed key information entered into the system by Public Works, and we investigated any discrepancies.

AUDIT RESULTS

THE JOINT VENTURE SUBSTANTIALLY MET ITS COMMITMENT FOR PARTICIPATION BY MINORITY AND WOMEN BUSINESS ENTERPRISE SUBCONTRACTORS

Although the contract had not yet closed as of July 31, 2000, the joint venture had substantially met its commitment to pay its minority business enterprises (MBE) and women business enterprises (WBE) subcontractors 20.45 percent, or \$1,769,315, of the contract amount of \$8,651,905. As of July 31, 2000, the joint venture had paid its MBE and WBE subcontractors 20.21 percent, or \$1,748,577, of the total amount of the contract. The table below shows the amount and the percentage of the contract that the joint venture had paid its MBE and WBE subcontractors as of July 31, 2000.

Participation of Minority and Women Business Enterprise Subcontractors
Ranger Pipelines, Inc./D'Arcy & Harty Construction, a JV
April 8, 1998 Through July 31, 2000

Minority and Women Business Enterprise Subcontractors	Committed Percentage of Contract Amount	Amount Paid to Subcontractors	Percentage of Contract Amount
MBE Subcontractors			
Bass Electric	3.00	\$305,292	3.53
Cobra Trucking	0.90	72,392	0.84
Peak Engineering, Inc.	4.00	318,189	3.68
A Answer, Inc. (Note 1)	<u>5.30</u>	<u>433,006</u>	<u>5.00</u>
Subtotal	13.20	\$1,128,879	13.05
WBE Subcontractors			
A Answer, Inc.	7.00	\$597,960	6.91
Owens Concrete Saw and Company, Inc.	<u>0.25</u>	<u>21,738</u>	<u>0.25</u>
Subtotal	7.25	\$619,698	7.16
Total	20.45	\$1,748,577	20.21

Note 1: Subsequent to Public Works awarding the contract to the joint venture, the City found that one of the MBE subcontractors included in the joint venture's bid was not a responsible contractor. The Human Rights Commission approved the joint venture's request to replace the non-responsible subcontractor with A Answer, Inc., a subcontractor certified as both a MBE and a WBE. As a result, A Answer, Inc. participated in this contract as both a MBE and a WBE subcontractor with separate goals for each type of participation.

As of July 31, 2000, the City had paid the joint venture a total of \$8,651,905. However, the contract has an escrow account that holds some funds until Public Works approves the release of funds to the contractor. As of October 2000, the escrow account had a balance of \$50,171. As of December 28, 2000, the escrow account remains open.

We determined the amounts that the joint venture paid each MBE and WBE subcontractor for the work these subcontractors performed on this contract. We confirmed with three MBE and WBE subcontractors that each received the amount shown in the table above. We found, however, Peak Engineering, Inc. (Peak), submitted to the City's Controller a stop notice claiming they performed work at a cost of \$96,182 for which the joint venture had not paid them. Peak's vice-president stated that they had completed more equipment set-ups at the job site than originally contracted for and the joint venture had not paid Peak for the additional work. According to an owner of one of the joint venture partners, the joint venture agreed to pay Peak the funds that remained in the escrow account totaling approximately \$46,000 but this did not satisfy Peak. The Controller received the stop notice after the City had paid all funds on this contract. According to Public Works' deputy chief of the bureau of construction management, Public Works will not approve releasing the remaining funds from the escrow account to the joint venture until Peak and the joint venture have resolved the claim.

We also found sufficient evidence to show that the three major MBE and WBE subcontractors, Bass Electric, Peak, and A Answer, Inc., performed the work for which they received payment. For the three MBE and WBE subcontractors, we reviewed a sample of the workforce reports these subcontractors submitted to Public Works. We compared these reports with the daily log kept by Public Works showing the number of subcontractors' employees working at the job site, and verified that employees on the workforce reports also appeared on the subcontractors' payroll records or daily job reports.

PUBLIC WORKS GENERALLY ENTERED ACCURATE INFORMATION TO THE CITYWIDE DIVERSITY TRACKING SYSTEM

Although Public Works accurately entered most information into the Citywide Diversity Tracking System (system), we found it did not correctly enter into the system all of the contract modification amounts. We also found that the contract payment amount in the system was inaccurate due to a system error.

The system showed that contract modifications totaled \$1,091,680; however, the correct amount is \$773,577. The difference of \$318,103 is due to four contract modifications that Public Works did not correctly enter into the system, including one modification that reduced the contract amount. The Public Works' accounting division manager stated that Public Works had not assigned four contract modifications to the contract resulting in the system not properly reflecting this information.

The system also showed that contract payments totaled \$8,296,518; however, the correct amount is \$8,651,905. The difference is \$355,387. According to the Public Works' accounting division manager, the difference is due to the system not recording contract payments made from the retention account in the Controller's Financial Accounting and Management Information System. The Department of Telecommunications and

Information Services' programmer responsible for this system stated this problem is a system limitation that has existed since implementation of the system and, while there are no current plans to fix this problem, the department is aware of the problem and intends to fix it when the Human Rights Commission, the owner of the system, requests and funds this service.

RECOMMENDATIONS

To comply fully with the Minority/Women/Local Business Utilization Ordinance in the San Francisco Administrative Code, the Department of Public Works should ensure it enters complete and accurate information for each contract into the Citywide Diversity Tracking System.

To ensure that the Citywide Diversity Tracking System contains accurate contract payment information, the Department of Telecommunications and Information Services should consider how to best improve the Citywide Diversity Tracking System so that all contract payments are recorded in the system.

We conducted this review according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Staff: Ben Carlick, Audit Manager
Jodi Darby

RESPONSES TO THE AUDIT

DEPARTMENT OF PUBLIC WORKS

**DEPARTMENT OF TELECOMMUNICATIONS
AND INFORMATION SERVICES**

City and County of San Francisco



Willie Lewis Brown, Jr., Mayor
Edwin M. Lee, Director



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Department of Public Works
Deputy Director for
Financial Management and Administration
1 Dr. Carlton B. Goodlett Place, Room 340
San Francisco, CA 94102

Robert J. Carlson, Deputy Director

January 19, 2001

Ben Carlick
Audit Manager
1 Dr. Carlton B. Goodlett Place
Room 388
San Francisco, CA 94102


Subject: Response to Audit Report Number: 00003

Dear Ben:

Thank you for giving us the opportunity to respond to your audit report number 00003 concerning our construction contract with the joint venture of Ranger Pipelines, Inc./D Arcy & Harty Construction. We agree with the findings and recommendations. Please note, the contract modifications not entered into the diversity tracking system at the time of the audit have now been entered.

If you have any questions and/or need additional information, please contact me at 554-4831.

Sincerely yours,


Robert J. Carlson
Deputy Director for Financial
Management and Administration

RJC:isp

c Nini Leigh
Gordon Choy
Chron. File

CITY AND COUNTY OF SAN FRANCISCO



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DEPARTMENT OF TELECOMMUNICATIONS
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Rod Loucks
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January 10, 2001

Ben Carlick, Audit Manager
Office of the Controller, Audits Division
City Hall, One Dr. Goodlett Place, Rm 388
San Francisco, CA 94102

Subject: **Response to Draft Audit Report and Management Letter of HRC Compliance
Audit of Zoo Infrastructure Replacement Contract**

Please reference your letter to Ed Lee, Liza Lowery, & Virginia Harmon, dated 12/28/00, page 5 last paragraph, second sentence, and continuing to page 6 the remainder of the first paragraph in which you state:

"According to the Public Works accounting division manager, the difference is due to the system not recording contract payments made from the retention account in the Controller's Financial Accounting and Management Information System. The Department of Telecommunication and Information Services' programmer stated this problem is a system limitation that has existed since implementation of the system and, while there are no current plans to fix this problem, the department is aware of the problem and intends to fix it."

The Controller/HRC hired KPMG consultants to design a system with very tight timelines. A DTIS programmer was brought in earlier to begin gathering specifications from the clients, and then work with the consultants providing additional information and to learn the new technology to maintain the system once the consultants left. The problem identified above is a shortcoming of the initial needs assessment that has existed since implementation of the system.

DTIS is a service organization and therefore, we perform work as requested and prioritized by our clients as long as there is funding available. DTIS does not have the authority to make changes without the client's knowledge or direction.

If you need additional information, please do not hesitate to let me know.

Sincerely,


Rod Loucks

cc: Edwin Lee, Director of Public Works
Virginia Harmon, HRC Interim Director
Liza Lowery, Executive Director - DTIS

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cc: Mayor
Board of Supervisors
Civil Grand Jury
Budget Analyst
Public Library
Recreation and Park Commission
Department of Telecommunications and Information Services
KPMG LLP



